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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/537,859	03/28/2000	Paul Proost	49673	5520

7590 08/16/2002

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EXAMINER

ROARK, JESSICA H

ART UNIT	PAPER NUMBER
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1644

DATE MAILED: 08/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/537,859

Applicant(s)

PROOST ET AL.

Examiner

Jessica H. Roark

Art Unit

1644

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 26 July 2002. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☒ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 13-23.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See Continuation Sheet

PHILLIP GAMBEL
PHILLIP GAMBEL, PH.D.
PRIMARY EXAMINER
Reza Contel 600
8/15/02

Continuation of 2. NOTE: the inclusion of limitations requiring that the N-terminally truncated MCP-2 sequence not include deletions beyond certain residues requires new search and consideration with respect to these sequences. In addition, although Applicant has proposed a change to the sequence listing that is supported in Figure 1; as was previously noted it is unclear if the sequence provided for the MCP-2 allelic variant in Figure 1 represents an obvious correction for the sequence provided in the sequence listing. Given the original discrepancy between the sequence listing and Figure 1 (as well as the sequence of the MCP-2 allele provided by Van Collie et al. (IDS#AS)), Applicant's failure to include an explanation of how both the error and correction are obvious raises the issue of New Matter and fails to simplify the issues for appeal.

Continuation of 5. does NOT place the application in condition for allowance because: the proposed amendment has not been entered and thus Applicant is arguing limitations not found in pending claims 13-23.

Continuation of 10. Other: Applicant is reminded of the requirement for formal drawings set forth in section 7 of the Office Action mailed 3/26/02. Subsequent after final amendments which do not address the drawings requirement will not be entered, at least because the proposed amendment would be non-responsive to the drawing requirement of record.